IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 5820 of 1999

Between:

Donthireddy Sivaramireddy S/o Seshireddy
R/o Mellempudi Village, H/o Ipptam,
Tadepalli Mandal, Guntur District.

..... PETITIONER

AND

1 The Collector, Guntur District,Guntur.
2 The Revenue Divisional Officer, Guntur.
3 The Mandal Revenue Officer,Tadepalli, Tadepalli Mandal, Guntur District.
4 Kancherla Yesu Mariamma W/o Kancherla Subbaiah
5 Yedulamudi Koteshwaramma W/o Yedulamudi Samson
6 Bussu Seetaravamma W/o Veeraiah
7 Kancherla Mariamma w/o Balaswamy
8 Kancherla Sarala W/o Mariadasu
9 Kuraganti Venkayamma w/o Prabhakar
10 Madasu Bholakshmi W/o Ravi
11 Kumbha Eswaramma W/o Sivashankar
12 Kumbha Siva S/o Nagaiah
13 Kumbha Venkataramana S/o Kotaiah
14 Kumbha Bhagyam W/o Subba Rao
15 Kumbha Durga W/o Ramudu
16 Shaik Jimmibi W/o Shaik Hussain
17 Shakirunbee W/o Shiak Md.Yusuf
18 Abdulla Basheerunissa W/o Razack
19 Govindu Shanti W/p Paramandam
20 P.Uma W/o Venkateswara Rao
21 Saikam Sivakumari W/o Balakrishna
22 Maila Sai Kumari w/o Prasad
23 Saikam Lakshmikantamma W/o Venkateswarulu

(Respondents 4 to 23 are residents of Mellempudi Village, Hamlet of Ippatam Village, Tadepalli Mandal, Guntur District. They are all impleaded as respondents 4 to 23 as per Court order dt.20.12.2000 made in W.P.M.P.No.19967 of 2000)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that

in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other writ, order or direction in the nature of a writ, declaring the action of the respondents in acquiring Ac.5-42 cents of land situated in S.No.63 of Mellempudi village, H/o.Ippatam, Tadepalli Mandal, Guntur District under the provisions of the Land Acquisition Act as illegal, null and void and to set aside the same.

Counsel for the Petitioner:MR.G.PEDDA BABU

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

Counsel for the Respondent Nos.4 to 23:MR.G.VIDYA SAGAR

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.5820 OF 1999

ORDER:

The land admeasuring Acs.5.42 in S.No.63 belongs to Sri Venugopalaswamy Temple (hereafter called, the Temple), Mallempudi Village, hamlet of Ippatam Village in Tadepalli Mandal, Guntur District. First respondent issued a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the Act) proposing to acquire a total extent of Acs.8.00 (Acs.5.42 in S.No.63, Acs.0.11 in S.No.176, and Acs.2.47 in S.No.178-2). Aggrieved by the acquisition proceedings, petitioner filed the present Writ Petition.

The petitioner claims that he is cultivating tenant of the temple land where he has raised banana crop and paying maktha of Rs.2,500/- (Rupees two thousand and five hundred only) per acre, and that he is entitled to protection under A.P.(Andhra Area) Tenancy Act, 1956. His grievance is that without issuing any notice to petitioner, respondents are trying to forcibly evict the petitioner in the guise of land acquisition proceedings.

Second respondent filed a counter affidavit on behalf of respondents opposing the Writ Petition. It is stated that the land of the Temple was proposed for acquisition for providing house sites to weaker sections. Accordingly, after publication of draft notification and draft declaration, an enquiry under Section 5A of the Act was dispensed with. The award enquiry was conducted on 22.3.1999 and compensation of Rs.5,57,955/- (Rupees five lakh fifty seven thousand nine hundred and fifty five only) towards 80% of the compensation was paid to Executive Officer of the Temple. It is also alleged that the Temple has handed over possession of the land on 25.3.1999 and pattas were distributed to the beneficiaries by the Mandal Revenue Officer. The allegation that no notice was issued to petitioner is, however, not denied. The allegation of the petitioner that he is landless poor person is denied.

Learned counsel for the petitioner, Sri G.Peddababu, submits that the petitioner has raised banana crop on the land and even as on today,

there is no standing crop. Be that as it is, the petitioner is admittedly tenant of the temple land. Curiously, the Temple is not made party in this Writ Petition filed challenging the land acquisition proceedings. Further, under Section 82(1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, the Endowments Act), after coming into force of the said provision, lease of agricultural lands given by the Temples stands cancelled. The landless poor persons, who are in possession of Acs.5.00 of dry land or Acs.2.50 of wet land are, however, given right to purchase the temple land and if they fail to purchase the temple land, the lease stands terminated. In that view of the matter, petitioner cannot be an aggrieved person to challenge the land acquisition proceedings. If he is entitled for any compensation as tenant, as held by Division Bench of this Court in **Katari Satyanarayana v. District Collector, Krishna**[1], he may file a claim petition before the LAO. Further more, as per Rule 5 of the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003, after service of notice in Form-I the tenant fails to handover possession, he can be evicted treating him as encroacher under the provisions of the Endowments Act. It shall be open to respondents to follow due process of law for evicting the petitioner, if he is in possession.

The Writ Petition, with the above observations, is disposed of.

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(V.V.S.RAO, J)

13.9.2004
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To
1 The Collector, Guntur District,Guntur.
2 The Revenue Divisional Officer, Guntur.
3 The Mandal Revenue Officer,Tadepalli, Tadepalli Mandal,

Guntur District

4 2 CCs to G.P. for Revenue, High Court Bldgs., Hyderabad (OUT)

5 2 CD copies.

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[1] AIR 1990 AP 326